19 B Class

Karnatak

B Class

File No. C B e 1155

RTWB DEPARTMENT 868 Rev(CT) dt 25/2/57

E BRANCH

Subject:— Classification IAS.

Report from individuals

for D/E

B Class
Karnatak

Rev(CT)

To Supdt. P. & Dev. Labour Section

dt 21/2/57

File No.

Std. Sectt. Slip 24 B e.

G.R., G.D., No. 2408, dated 22-6-22.]

Correspondence

DOCKET SHEET

Subject :—

File No._____

_____DEPT.

_____BRANCH.

References :—

Date.	To whom sent.	Notes and instructions.

Rehabilitation, Housing &
Backward Class Dept.
'J'

Submitted with reference to this Dept's letter dt. the 14-4-55.

2. Please see the District Magistrate's report which is self explanatory. In view of the circumstances stated therein, the applicant may be informed as per draft letter put up.

The P.& S.D. may first see U.O. for concurrence.

Id/-19-7.

Id/-20-7

U.O.R. to P. & S.D. 21-7-55.

Political & Services Dept.

The R.H.B.C.D. may be requested U.O to call for remarks ~~given~~ of the Director of Backward Class Welfare, in the ~~forth~~ first instance. It would ~~xxx~~ also seem advisable to consult the L.D. with reference to the point~~s~~ × raised by the collector in his letter dt.16-3-55. That Dept may be requested to do so on receipt of the D.M' remarks.

Id/-19-8-55.

It does not seem necessary to call forth remarks of the Director of Backward Class Welfare at this stage. The point which requirs consideration is whether the applicantant ~~consent~~ contention that he can claim ~~to~~ belong to the same ~~caste~~ which his mother belonged is correct. R.H.B.C.D. may consult L.D. on this point. If L.D. advises that the contention is correct, then it would be for the applicantant to produce satisfactory evidence to show that his mother ~~a~~belonged to 'Backward Class' in order to substantiate his claim.

U.O.R. to P. & S.D. Id/-19-8-55

R. H.B.C.n/d

Submitted with reference to office note at. the 20-7-55.

2. In view of the Under Secmy's P.& S.D.'s note, the L.D. may perhaps be requested to advise whether the applicant's contention that he can claim to belong to the same caste to which his mother belonged is correct.

Id/-19-8-55.

Now that Govt. is sanctioning substantial concessions to B.C's, demands of the type under consideration in these pps. are likely to increase.

2. For the reasons given by the Collector of Poona in para 2 of his letter at p.11/c. Govt. may agree with him that there is no justification to treat Shri Natu as Backward.

3. The question as to what should be deemed to be the caste of illigitimate children where the mother belongs to a cast different from the father will have to be considered. This question does not appear to have been considered before. The D.B.C.W. may see u.c. for remarks.

4. We may also have to consider what should be deemed to be the caste of a lady from non-Backward communities who marries a person belonging to a Bac ward community and whether after marriage, she should be given the concessions admissible to the B.Cs. The D.B.C.W. may see u.c. for remarks in the first instance.

6. The D.B.C.W. may see u.c. for remarks.

Id/-8-55

My own feeling is that the moment you get a mixed case you cease to be entitled to any of the privilges or concessions admissiable to B. C.

Id/-26-8.

U.O.R. to the D.B.C.W. dt.26-8-55.

I think we have also made een reference of this sort to Government in a hypothetical case previously.

Id/-3-8-55.

Please issue u.o. to the D.B.C.W. from Poona.

Id/-3-8-55.

Below Govt.U.O.R. dated 26-8-55 in Rehabilitation, Housing & Backward Classes Department File No.CBC.1155/ 36537-J.

****

Office of the
Director of Backward Class Welfare,
State of Bombay,
Poona, 5th October 1955.

Resubmitted.

2. The Govt. note dated 22-8-55 contains the following points:-

(a) What should be the caste of the illegitimate children; and

(b) What should be the caste of the children in case of mixed marriages.

As regards(a), generally children remain with the mother, and the caste of the mother is considered as the caste of the child.

Regarding (b), if a non-Backward Class girl marries ackward Class boy, naturally she is considered to have

spring..

gone to an inferior position in Society. In such case it would seem desirable to extend state aid to their children.

If a Backward Class girl marries a non-Backward Class boy, she naturally goes to a higher status in society. Perhaps such cases will have to be viewed from the point of enviornments in which the married couple lives. In these cases also society does not look upon them sympthetically. Itt may be necessary to extend the benefits to ~~the woman~~ possibly the children ~~to~~ born of such marriages.

3. Reference in this connection is invited to this office letter noAM/XIII/SR-34/499, dated the 31st August 1955, on this subject. As the matter is complicated, it would be desirable to seek the opinion of the Backward Class Board also.

Sd/-
D.B.C.W.,B.S.Poona.

U.O.R. to Govt. in the Rehabilitation,Housing & Backward Classes Department, Sachivalya, Bombay No.AM/XIII/SR-34/499, dated the 5th October 1955.

R.H.B.C.D.

These papers may now be referred u.o. to the legal Deptt. with a request to advise:-

1) Whether if a non-Backward person marries a backward class girl, the girl after her marriage can be regarded as non-backward.

2) Whether if a B.C. male marries a non-backward girl, the girl can be regarded as belonging to the B.Cs;

3) Whether children from such wedlock should be reated as memvers of the B.C.Community to which the father or mother, as the case may be, belongs.

4) What, as in the ~~persual~~ present case, would be the caste of illigilmate children whose parents belong to different communities.

sgp/

The four points for M.I.A8s consideration are:-

1. Whether if a non-backward person marries a backward class girl, the girl after her marriage can be regarded as non-backward;

2. Whether if a backward male marries a non-backward girl, the girl can be regarded as belonging to the backward;

3. whether the children from such wedlock should be treated as members of the backward class to which the father or mother, as the case may be belongs;

4. what is in the present case, would be the caste of the illegitimate children whose parents belong to different castes.

2. The communities mentioned in the list of communities treated as belonging to the Backward Class in the state of Bombay would be governed by the Hindu Law as applicable to Sudras.

3. Section 29(1) of the Hindu Marriages Act, 1955 (Act No.XXV of 1955) so far as material provides that " a marriage solemnized between Hindus before the commencement of this Act, which is otherwise valid, shall not be deemed to be invalied or ever to have been invalid by reason only of the fact that the parties thereto belonged to different castes.". It follows from this provision whi h has retrospective effect that the Pratiloma marriages, i.e. marriages between males of lower caste and females of higher caste and the Anuloma marriages, i.e. marriages between males of higher caste and females of lower caste are now legally valid and issues born of such marriages would, therefore, be legitimate. The Hindu Law lays down certain rules for determining the caste of offspring of unions betwen parents belonging to different castes and gives separate names to the mixed castes to which such off-

spring..

springs belong. When intermarriages were permitted by ancient Hindu Law, children born of mixed marriages were termed Anulomajas and their caste was neigher that of their father not that of their mother. They belonged to an intermediate caste lower than that of their father and higher than that of their mother. Thus a son begotten by a Brahmin upon a Kshatriya wife is a Murdhavasikta etc." (see pp.543-544 Mullas Hindu Law, 11th Ed.). It follows from this that the parties to the marriage would retain their respective castes even after the marriage is solemnized. The answers to the first two questions raised by the R.H.B.C.D. would, therefore, be in the negative. As regards the 3rd question, the children born of mixed marriages would belong to a mixed caste which is neither that of the father nor that of the mother. Such childrn according to Hindu Law would not belong to the backward communities to which either of their parents might belong.

4. As regards the last question namely, as to what would be the caste of an illegitimate child, attention is invited Joint Secretary's opinion No.27587/A, dated 12th December 1955(copy enclosed herewith) wherein this point was discussed. As pointed out therein the caste of an illegitimate person depends upon several factors and the same cannot be easily determined by applying any definite rule of law. No definite opinon, can, therefore, be given on this point. In this case the applicant's contention that he being the illegitimate son his caste would be that of his ~~natural~~ Natural mother viz. Deoli which is recognised by Government s backward, is not supportable. On the contrary it has been held that the illegitimate son of a Kshatriya by a Sudra woman is not a Sudra but of a higher caste called"Ugra"(see p.544,Mullas Hindu law, 11th Ed.). Strictly speaking an illegitimate person belongs to no caste and he or she must be treated as belong to the caste the members of which have recognized him or her as a caste fellow(see p.543 of Mulla's Hindu Law p.543). In view of this and the fact that the

appellant...

applicant has not produced any evidence in support of his contention that he is Deoli by Caste, there would be no objection to Government rejecting his appeal field against the order of the Additional District Magistrate, Poona refusing to grant him the caste certificate.

Sd/- 25-2-56.
Joint Secretary to Government.

U.R. to R.H.& B.C.D. No. 4021/., dated the 20th February 1956.

sgp/-
14-8.

Legal Department.

Under the Hindu law the adopted son must belong to the same caste as his adopting father though it is not necessary that he should belong to the same sub-division of the caste(see 480p. 584 of Mulla's Hindu Law, 11th Edition). In the adoption-deed(at pp.31-33 in thecase pp. put up below) both the parties to the adoption in question are described as Marathas. In the Bombay State there are three classes of Marathas, namely(1) the five families,(2) the ninety six families and(3) the rest, and of these the first two classes are Kshatriyas and the last Sudras(p.1 of Mulla's Hindu Law.) In the absence of any definite evidence as regards the caste of the adoptive father, it is not possible to hold with the required degree of certainty that he was a Sudra. As regards the caste of the adopted son it would follow that of his natural father. The natural father of the adopted son is an illegitimate son. An illegitimate person, strictly speaking belongs to no caste, andhe or she must be treated as belonging to the caste the members of which have recognised him or her as a caste fellow.

(See...

(see p.543 of Mulla's H.Law, 11ed.) In Gour's Hindu Code 4th Ed.p.57 it hs been stated that the Privy Council has held in one case that the caste of an illegitimate son of Kshatriya by a Sudra woman is above that of a Sudra. In Mulla's H.Law, 11Ed. p.544 it is stated that it has been held that the illegitimate son of a Kshtriya by a Sudra woman is not a Sudra but of a higher caste called"Ugra". It would thus be seen tht the caste of an illegitimate person depends upon several factors and the same cannot be easily determined by applying any definite rule of law. Having regard to the difficultry of determining with the requisite degree of certainty the castes of the parties to the adoption in this case, the parties may be asked to get the validity of the adoption determined by the adjudication of a court of competent jurisdiction.

Sd/-S.S.Palekar.
Joint Secretary to Government.

U.R. to R.D. No. 2768/A, dated the 12th December 1955.

sgp/-
14-8

R.H.& S.C.D.
'E'Br.

Submitted with reference to the Asstt.Secy's note. dt.12-10-1955 at p. 5/N ante.

Please see also the R.L.A's opinion, dt.20-2-1956 at p.7-11/N ante andits accompaniment at p.13-14/N ante.

2. The following four pts. are under consideration in these pps.:-

1) whetcher if a non-backward(male) marries a backward class girl, the girl after her marriage can be regarded as non-backward;

2) whether if a backward male marries a non-backward girl, the gril can be regarded as belonging t the backward;

3) whether...

3) whether, the children from such wedlock should be treated as members of the backward class to which the father of mother, as the case may be belongs and

4) what ~~is~~ as in the present case, would be the caste of the illegitimate children whose parents belong to differences castes.

3. The R.L.A. has opined that the parties to the marriage retain their respective castes even after the marriage is solemenized. The answers to the first two questions would therefore, be in the negative. As regards the 3rd question, the children born of mixed marriages would belong to a mixed caste which is neither that of the father nor that of the mother. Such children according th Hindu Law would not belong to the backward communities to which either of their parents might belong. As regards the last question namely, as to what would be the caste of an illegitimate child, the R.L.A. is of the opinion that ~~the~~ an illegitmate person belongs to no caste and he or she must be treated as belonging to the caste the members of which have recognised him or her as a case fellow. The general orders in the matter will have to be issued by the P.& S.D. In this particular case, in view of the R.L.A.'s opinion, the request of the applicant for caste certificate may be refused. The proposed draft letter at p.13-14/C may issue. After issue, the pps, may referred u.o. to the P.& S.D. for issuing general orders.

Id/-9-3-56.

The draft letter at p.13/c may issue.

2. The R.L.A.'s opinion at ps.7-11 ante. is very important and may be percued with interest. The P.& S.D. may be requested to show the draft orders to this Deptt. before issue.

Id/-13-3-56.

Dy.M.(B.C.D) Id/-14-3-56.

M (B.C.D.) Id/-16-3

Political & Services Department
'J' Br.

Please see the opinion given by the L.D.(pages 7-11) and the R.H.S.C.D. note dated the 13th March 1956 thereon(pages 15-16) The papers have been referred to this Dept. for issuing general orders in the matter. Draft circular is accordingly put up which may issue after u.o.r. to R.H.S.C.D. R.H.S.C.D. may please transfer these papers to this Department officially after keeping copies of the proceedings, if necessary,

Id/-9-5-56.

Resubmitted after discussion with A.S.

2. The L.D. has, interalia, opined that the children born of mixed marriages would belong to a mixed caste which is neither that of the father nor that of the mother. Under G.R.M P.&.S.D.No.490/46, dt 1/11/50, we have classified certain communities as "Backward Class Communities." The classification is according to Community and not according to "Caste". They may belong to two different communities. The parents belonging to the communities classified under our G.R. referred to as "Backward Class communities." might be of different castes and in that case their children would have to be treated as belonging to a "mixed caste," in accordance with the L.D.'s opinion. In other words, there would be cases in which both husband and wife are persons belonging to Backward communities as per G.R. of 1-11-50 but since they belong to

"different..

to a mixed caste which is neither that of a father nor that of a mother. In such cases, children would not belong to a backward community and they would not get any concessions admissible to persons belonging to backward class communities although their parents are eligible for such concessions. It seems that before necessary general orders are issued embodying the L.D.'s opinion on the four points, this point should also be got clarified and instructions may be issued on this point also. The L.D. may therefore please see u.o. again for advice. The pps. may be referred u.o. to L.D. through R.H. and S.J.D.

Id/-26-5-56.

It seems to follow from the L.D.'s N.D. opinion that persons born of parents belonging to two different communities classified as Backward will not belong to the Backward Class since they will not belong to any recognised community included in the Backward Class. L.D. may be requested to state whether this would be the correct position.

Incidentally it appears that the legal position as set out by the R.L.'s might not have been correctly appreciated by the Magistrates hitherto and as a result persons born of mixed marriages might have been certified as belonging to the community of their parents and ~~on~~ that ~~account~~ amount to the Backward Class. If therefore claims of such persons are to be properly scrutnised the Magistrates who are authorised to issue certificates to candidates belonging to the Backward class will have to ascertain the community of the parents of the applicant to ensure that both the parents belonged to the same community classified as Backward. It will be necessary.....

necessary to issue suitable instructions to the Magistrates in this connection.

R.H.& B.C.D. and L.D. may ssee u.o. as proposed.

Id/-8-6-56.

Chief Secy. Please speak.

Id/-4-6

A.S.(Shri N)

Such cases are bound to be rare and as such it would be desirable to take general orders in individual cases.

A circular at this stage is not necessary.

Id/-12-6.

u.o.r. to R.H.& B.C.D. dt.13-6-56.

for information.

R.H. & B.C.D.
'E'

Submitted.

These pps were referred u.o. to the P.& S.D. for issue of orders in view of the R.L.A's opinion on the viewed question of "caste after marriage" etc.". that deptt. however for the reason stated at a above does not consider it necessary to issue generzl orders at this stage. That deptt. has further stated that Govt. order on individula cases should be taken.

This deptt. may agree and thank treate this case as closed.

Id/- 18-6.56.
please
Yes. but keep copies of the R. .A's opinion on the relevant noted files

Id/-18-6

sgp/-
14-8

From

Shri. D.V.Natoo,
LL.B.,Pleader,
33/28,Yerandavana, Poona 4.

To

The Secretary,
Educational Deptt.
Secretariate, Bombay.1.

Being aggrieved by the Order of the Additional Dist. Magistrate Poona dated 10-3-55 given in Application for the Caste Certificate dated 12-11-54 whereby the Addl .Dist Magistrate has refused to give the Certificate of Backward Class to the Applicant, the Applicant hereby appeals to your Honour on the following among other grounds:-

1) That the Addl.District Magistrate h s not taken into consideration the fact that the Applicant is the illegitimate son and hence his caste/belongs to the caste of his mother.

2) That the Addl.Dist.Magistrate has over-looked the opinion expressed by the District Government Pleader wherein he has stated that on facts there is no impediment in giving the Certificate to the Applicant.

3) That the District Magistrate hs not given any value to the affidavit made by the Applicant about the caste of his mother which thou h has been described as "Konkani Devli" the Certificate could have been given to the Applicant either as "Konkani" or "Devli" as these two casts are distinctly given in the list of the Backward Class Order,as Backward castes.

4) The District Magistrate has not considered the judgment of the I Clast Court Poona where it is specifically proved that the Applicant was the illegitmate son and it seems that he has attached musch value to the School Certificate wherein the caste of the Applicant.

is described as Brahmin which was so described by his putative father when he was put to school by him.

And hence it is requested that the order of the Additional District Magistrate be set aside and the Applicant should be granted "Backward Class Certificate" as belonging to Kokani or the Devli Caste according to the Backward Class Order of the Government of Bombay.

Boona,
Dated, 29th March, 1955.

APPLICANT.

Enclosed pladse find.

1) The Original order of the Addl.D.M.Poona with cover.

No.GB/VS/VII/37-55
Poona, 10-3-55.

To

Shri D.V.Utoo,
33/28 Erandavane, Poona 4.

Sub:- Caste certificate- Request for grant of-

Reference your letter dated 25--1955.

2. It is regretted that your request for caste certificate cannot be granted.

Sd/-
Addl.District Magistrate, Poona.

sgp/-
14-8

No.CBC/155/12702-L
DDCBC, R& H.D.
Sect(Annexe), Fort, Bombay,
14th April 1955.

To

Shri D.V.Natoo,LL.B.,Pleader,
33/28, Yerandavana, Poona 4.

Sub:- Change in caste
Request by Shir D.V.Natoo.

Sir,

With reference to your letter dt.29-3-1955 on the subject mentioned above, I am directed to state that it is receiving attention in this Department.

Yours faithfully,

Sd/-1164/55.
Asstt.Secretary to the Govt. of Bombay.
DDCBC,R.& H.D.

Copy with a copy of the letter to which it is a reply and a copy of its accompaniment forwarded to the D.M.Poona, for remarks.

No.CBC 1155/12702.J.
Rehabilitation, Housing and
Backward Classes Department.
New Secretariat, Forsshore Road,
Bombay,1. June 1955.

To

The District Magistrate Poona,

Sub:- change in cast
Request by shri D.V. Natoo

Reference:- This Department endorsement.
No. Even dated 14-5-55 on the subject mentioned above

2. Please expedite the submission of your remakrs in the matter immediately.

Sd/-22-6
Superintendent.
Rehabilitation,Housing and
Backward Classes Department

sgp/-
14-8

No.GBSVII/3755-54.
Poona, 16th June 1955.

To

The Assistant Secretary to Government,
Development Deptt.,Secretariat(Annexe) Fort, Bombay,

Sub:- Change in caste-Request by Shri D.V.Natoo.

Ref; Your No.CBS/1155/12702-J dated 14-4-55.

Shri D.V.Natoo Pleader applied to the Mamlatdar Poona City for grant of caste certificate on 10-11-54. The Mamlatdar Poona City referred the matter to this office for necessary orders under objection that the applicant's school leaving certificate showed the applicant's caste as 'Brahmin' and the affidavit he made showed his caste as 'Konkani Deoli'. On scrutiny of his case it is noticed that the applicant is an illegitimate son of late Sardar V.N.Natoo of Poona. The case papers were then sent to the Dist. Govt.Pleader for opinion. The Dist.Govt.Pleader opined that the applicant is the son of an Avamudha Stree and cannot belong to 'Brahmin' by Caste. The applicant's request was further refused on the following points:-

The applicant did not produce the extract of birth and death register of him mother andalso of his own to show to what caste his mother and himself belonged. There is nothing mentioned in the judgement(of the case filed for grant of maintenance charges) that his mother belonged to a particula Backward Class community. The school certificate gives his caste as 'Hindu Brahmin'. This information must have been given by his parents or guardians in writing when he was first put in the school. Thus it cannot be disbelieved or challenged after so may years. Now he wants to change his caste to one of the Backward Class community in order to secure concessions in service or the benefit given by the Govt.to the Backward Classes. He is therefore moving all his nerves for this purpose. No one knows of what caste his mother was and he has not proved this. Mere affidivite cannot be said to be

sufficient....

sufficient evidence in his case for grant of caste certificate It is open to him to go to Civil Court and get it there. But it appears that he does not want to resort to that remedy for the reason best known to himself. Presumable because he must be sure that he would not succed in civil court andhe is therefore trying to get it through the Revenue Department.

Lastly there are no definite Govt. orders regarding issue of caste certificates to such illegitimate persons and also it is not a binding on theissuing authority to grant the certificate when the authority is not satisfied about the caste and community of the applicant and when it has not been proved to the satisfaction of the issuring authority.

The applicant's request was therefore refused on the basis of the zabove points. (grounds)

Sd/-11-6-
for Collector Poona.

No CBC 1155/10388-A.
R.H.& B.C.D.
Sachivalaya. Bombay.1.
29th March 1955.

To

Shri D.V.Natoo,LL.B.,Pleader.
33/28,Yerandavana,Poona 4.

Sub:- Caste Certificate.
request ---for grant of.

Sir,

In continuation of this Deptt's letter No.CBC 155/12702-j dt. the 14-4-1955, on the subject mentioned above, I am directed to state that is is regretted that Govt sees no reason to interfere with the orders issued by the Addl.D.M.Poona in th matter.

Yours faithfully,

Sd/-13-3-
Asstt.Secretary to the Govt. of Bombay,
R.H.B.C.D.

Copy forwarded to the D.M.Poona, with reference to the correspondence ~~referred~~ resting with his letter No.GBWSVII/3755-54, dt the 16-6-55.

Non-Backward and Backward Communities.
Issuxe of Caste certificates to the prties of---

GOVERNMENT OF BOMBAY.
Political and Services Department,
Circular No.BAC 1155.
Sachivalaya, Bombay May, 1955.

CIRCULAR TO GOVERNMENT.

A question has been raised-

(i) whether the caste of a person belonging to a non-backward community changes after marriage with a person belonging to a backward community,

ii) what should be the caste of a child of such a wedlock; and

(iii) what should be the caste of an illigitimate child whose parents belong to different(i;e. Backward and non-backward) Castes.

Government is pleased to direct that-

(i) Parties to the marriage retain their respective castes even after marriage is solemnized. The caste of the persons, after marriage, does not therefore, change.

(ii) A child born of a mixed marriage belongs to a mixed caste which is neither that of a mother nor that of a father. Such a child according to Hindu Law would not belong to a backward community to which either of its parents might belong; and

(iii) Caste of an illegitimate child depends upon several factors. Strictely speaking, an illigitimate person belongs to no caste and he/she must be treated as belonging to the Caste themembers of which have recognised him/her as a caste fellow.

...2

2. The authorities competent to issue Caste Certificates should take into consideration these instructions while issuing certificates to the persons falling under any of the cagegories mentioned in para 1 above.

By order ..... etc.,

Chief Secy. to the Govt. of Bombay, P.& S.D.

To

The Secretary to the Governor,

The Secretary t the Chief Minister,

The Accountmt General, Bombay.

The Dy.A.G., Baroda,
" Sech. P.B + SC.
The Prothonotary & Senior Master,
High Court, Bombay.

The Registrar, High Court, Appellate Side.
Bombay.

The Director of Backward Class Welfare,
Backward
The Rehabilitation, Housing &xMaxxing
classes Department,

The Legal Department,

All other Departments of the Secty.,

All heads of Deptts and Heads of offices
under the several deptts of the Secretariat.

sgp/-
14-8